

# **TITLE 21**

## **GOVERNMENTAL FINANCE**

### **CHAPTER 21-01**

#### **PAYMENT AND REGISTRATION OF WARRANTS**

##### **21-01-01. Definitions.**

1. The term "taxing district" when used in this chapter, unless the context thereof clearly requires otherwise, means any county, city, school district, township, park district, water conservation and flood control district, Garrison Diversion Conservancy District, county park district, joint county park district, or irrigation district in the state.
2. The term "warrant" when used in this chapter means an order drawn by the proper taxing district officials on the treasurer, or other person acting as treasurer, of said taxing district, the warrant or order to be so drawn that when signed by the treasurer, or person acting as treasurer, in an appropriate place it becomes a check on the taxing district depository. No warrant upon the treasurer, or person acting as treasurer, may be delivered or mailed to the payee or payee's agent or representative until such warrant has been signed by the treasurer, or person acting as treasurer, and entered on the books of the treasurer or person acting as treasurer as a check drawn on a bank depository.

**21-01-02. Warrant - Order of payment.** Any warrant upon the treasurer of any taxing district must be paid in the order of its presentation for payment, except as otherwise provided in this chapter. Such warrant must be so drawn that when signed by the treasurer in an appropriate place it becomes a check on the taxing district depository. No warrant upon the treasurer may be delivered or mailed to the payee or payee's agent or representative until such warrant has been signed by the treasurer and entered on the treasurer's books as a check drawn on a bank depository.

**21-01-03. Maximum amount of warrants or indebtedness - Violation of provisions - Liability - Penalty.** Except as otherwise provided in this chapter, no warrant purporting to be drawn upon the funds in the hands of the treasurer of any taxing district may be issued in excess of the amount of cash in the hands of the treasurer exclusive of sinking funds and funds for the payment of interest upon bond issues. No indebtedness may be incurred, and no undertakings or expenditures authorized, in excess of unencumbered uncollected taxes which have been levied during the current year plus the unencumbered uncollected taxes of the four preceding years. Any warrant issued, contract entered into, or purported indebtedness incurred, in contravention of this section is null and void, but this provision is not intended to detract from the provisions of section 21-02-03 with reference to the incontestability of certificates of indebtedness. Any officer willfully executing or participating in the execution of any warrant or contract or attempting to incur any indebtedness of any such taxing district in contravention of this section is guilty of a class A misdemeanor. Any officer executing or participating in the execution of any warrant in contravention of this section is personally liable for the payment thereof to the holder in due course.

**21-01-04. Warrants for current expenses.** In case any taxing district is unable to sell its certificates of indebtedness, it may issue warrants in payment of current expenses in excess of cash on hand, but not in excess of eighty-five percent of taxes levied for the fiscal year of issue but uncollected and not otherwise encumbered, plus fifty percent of the uncollected and not otherwise encumbered taxes of the four preceding years, and the funds derived from the collection of taxes for the current year and such preceding years, to the extent that the same have been encumbered, constitute a special fund for the payment of warrants issued against such taxes. If warrants are issued in excess of such limitations, such warrants possess no validity as against the taxing district, but the officials knowingly and willfully issuing the same are liable personally for the payment thereof.

**21-01-05. Warrants for salaries and official publications - Payable one-half in cash prior to other warrants.** The governing board of any political subdivision, in the event that there have not been funds in the treasury of such subdivision sufficient to pay the salaries and wages of the officials and employees, including publication fees for official printing by the official newspaper of such subdivision, in full for a period of six months, by resolution, may authorize the issuance of warrants to such officials, employees, and the official newspaper for salary, wages, and official publication fees, whereby one-half of such salaries, wages, and official publication fees must be paid in cash by the treasurer of such political subdivision to such officials, employees, and official newspaper, and a warrant issued for the balance thereof which must be registered and paid as other warrants are registered and paid. This section must be construed to relieve the treasurer of such political subdivision of liability to other warrant holders because of the payment of salaries, wages, and official publication fees as provided herein.

**21-01-06. Registration of warrants - Rate of interest.** Whenever the law authorizes the officers of any taxing district to issue warrants in excess of the amount of cash available in any fund upon which warrants are drawn for payment, the treasurer of that taxing district, when any warrant is presented to the treasurer for payment, if not paid for want of funds, shall endorse the same "Presented for payment on \_\_\_\_\_, \_\_\_\_\_, and not paid for want of funds", and thereupon shall enter the warrant in the treasurer's warrant register in the order of presentation for registration. The governing body of a taxing district authorizing the issuance of warrants in excess of cash on hand shall determine the rate of interest which the warrants must bear, but in the case of counties and cities the rate may not exceed eight percent per annum from the date of registration until the expiration of the time specified for presentment for payment.

**21-01-07. Warrant register - By whom kept - Form.** The treasurer of every taxing district shall keep a warrant register, which must show in columns appropriately arranged:

1. The number and registered number, date, and amount of each warrant presented.
2. The particular fund upon which the same is drawn.
3. The date of presentation.
4. The name and address of the person in whose name the same is registered, and subsequent assignees, if furnished therewith.
5. The date of payment, when made.
6. The amount of interest, and the total amount paid thereon, with the date when notice to the person in whose name such warrant is registered and is mailed as hereinafter provided.

**21-01-08. Treasurer to notify holder to present warrant - Order of payment.** Whenever the treasurer of a taxing district has received money belonging to any particular fund sufficient to pay the warrant drawn against such fund which by the treasurer's warrant register appears to be next payable, such treasurer immediately shall notify by mail the person in whose name such warrant is registered, or that person's assignee, if notified of the assignment, that unless such warrant is presented for payment on or before the date specified in such notice, the interest thereon ceases after such date. All warrants so registered must be paid in the order of their registration.

**21-01-09. Cashbook and register to be footed daily and closed annually - Penalty for failure.** The treasurer of every taxing district, daily, as moneys are received, shall foot the several columns of the treasurer's cashbook and register and carry the amounts forward. At the close of each year, in case the amount of money received by such treasurer is insufficient to pay the warrants so registered, the treasurer shall close the account in such register for that year, and shall carry forward the excess. Any treasurer who fails regularly to enter upon the treasurer's cashbook the amounts so received or who fails to keep the treasurer's cashbook footed from day to day, as required by this section, for the space of three days, shall forfeit for each offense the

sum of one hundred dollars, to be recovered in a civil action on the treasurer's official bond by any person holding a warrant drawn on such treasurer.

**21-01-10. Cashbook and register open to inspection.** The cashbook and register of the treasurer of any taxing district must be open at all times to the inspection of any person in whose name any warrant is registered and unpaid.

**21-01-11. Failure to register warrants - Liability of treasurer.** The treasurer of any taxing district who fails to register any warrant in the order of its presentation, or to pay the same in the order of its registration, is liable on the treasurer's official bond to each and every person the payment of whose warrant is postponed thereby, in the sum of three hundred dollars, to be recovered in a civil action.